

I.R. NO. 96-12

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF RINGWOOD,

Respondent,

-and-

Docket No. CO-96-205

RINGWOOD PBA, LOCAL NO. 247,

Charging Party.

BOROUGH OF RINGWOOD,

Respondent,

-and-

Docket No. CO-96-206

RINGWOOD EMPLOYEES GUILD,

Charging Party.

SYNOPSIS

In a joint action brought by Ringwood PBA, Local No. 247, and Ringwood Employees Guild, a Commission Designee orders the Borough of Ringwood to provide the Unions with copies of plan documents from the new health carrier. The Unions are entitled to that information to be able to administer their contract and their health benefit rights. The Commission Designee denied the Union's request to require the Borough to transfer back to the prior carrier while they studied the new plan documents.

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Charging Party.

Appearances:

For the Charging Party, Loccke & Correia, P.A., Attorneys
(Charles E. Schlager, Jr., of counsel)

For the Respondent, D'Angelo & Clemack, Attorneys
(Richard Clemack, of counsel)

INTERLOCUTORY DECISION AND ORDER

On January 24, 1996, Ringwood PBA, Local No. 247, and Ringwood Employees Guild, filed unfair practice charges with the Commission against the Borough of Ringwood, Docket Nos. CO-96-205 and CO-96-206, respectively, alleging it violated subsections 5.4(a)(1), (2), (5) and (7) of the New Jersey Employer-Employee

Relations Act, N.J.S.A. 34:13A-1 et seq.^{1/} The unions alleged that on or about January 1, 1996, the Borough unilaterally changed insurance carriers prior to allowing them time to determine whether benefit levels would remain the same, and that the Borough failed to provide them with the plan documents they needed to determine whether the benefits remained the same.

The unfair practice charges were accompanied by a joint application for interim relief seeking an order requiring the Borough to provide the plan documents from the new carrier, and requiring the Borough to transfer back to the former carrier while the Unions study the new plan documents to determine whether there would be a change in the level of benefits.

To accomodate the needs of the parties I conducted a telephone conference call on Janaury 29, 1996 at which time the parties argued in support of their respective positions.

Both parties are aware of the standards that have been developed by the Commission for evaluating interim relief requests. These standards are similar to those applied by the Courts when

^{1/} These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (2) Dominating or interfering with the formation, existence or administration of any employee organization. (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative. (7) Violating any of the rules and regulations established by the commission."

considering similar applications. The moving party must demonstrate that it has a substantial likelihood of success on the legal and factual allegations in a final Commission decision and that irreparable harm will occur if the requested relief is not granted. Further, in evaluating such requests for relief, the relative hardship to the parties in granting or denying the relief must be considered.^{2/}

Prior to January 1, 1996, the Borough's health insurance was provided through a self insurance fund administered by "IDA". The Borough concedes that on or about January 1 it unilaterally switched to a larger self insurance fund also administered by IDA. The Borough argued there was no change in the level of benefits, but it conceded that it was required to negotiate if there were changes, and would be responsible for any difference in coverage. The Borough further conceded that the Unions were entitled to a copy of the plan documents.

The Unions did not allege they were currently aware of any changes in benefits, but argued that the Borough should be required to transfer back to the previous fund while that determination was being made. No evidence was available, however, to show 1) that the Borough would be allowed to reenter the prior fund and/or then be

^{2/} Crowe v. DeGioia, 90 N.J. 126 (1982); Tp. of Stafford, P.E.R.C. No. 76-9, 1 NJPER 59 (1975); State of New Jersey (Stockton State College), P.E.R.C. No. 76-6, 1 NJPER 41 (1975); Tp. of Little Egg Harbor, P.E.R.C. No. 94, 1 NJPER 36 (1975).

allowed to reenter the new fund, and 2) what harm the Borough would suffer if it were allowed to move back and forth between funds.

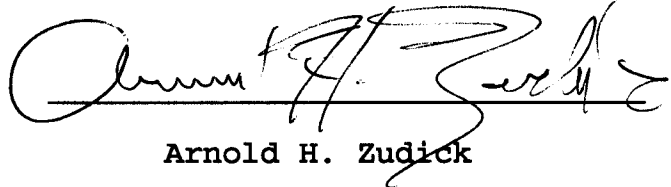
There is a substantial likelihood that the Unions would establish at a plenary hearing that the Borough violated the Act regarding the plan documents. The failure or refusal to provide information relevant to contract administration, such as the health plan documents, is a refusal to negotiate in good faith. City of Atlantic City, P.E.R.C. No. 89-56, 15 NJPER 11, (¶20003 1988); Downe Tp. Bd. Ed., P.E.R.C. No. 86-66, 12 NJPER 3 (¶17002 1985); Shrewsbury Bd. Ed., P.E.R.C. No. 81-119, 7 NJPER 235 (¶12105 1981). If that situation were to persist it could irreparably affect the administration of the employees health plan. Since the Borough admits it must provide the plan documents, and since there is no harm to the Borough for providing the documents, I am requiring they be provided consistent with the below ORDER.

The request by the Unions that the Borough be required to transfer back to the prior fund, however, is denied. The Borough may suffer substantial penalties for transferring between funds and there is insufficient evidence to allow me to properly weigh the harms in this case.

ORDER

The Borough is hereby ORDERED to provide the Unions with the plan documents for the prior fund, and the new fund, on or about February 7, 1996.

By Order of the Commission

A handwritten signature in black ink, appearing to read "Arnold H. Zudick", written over a horizontal line.

Arnold H. Zudick

Commission Designee

Dated: January 30, 1996

Trenton, New Jersey